

The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner
January 21, 2005

Michael Beavers
14000 River Road
Potomac, MD 20854-6039

**NOTICE OF NON-COMPLIANCE and
PERMIT REVOCATION – NCPR # 04-051**

RE: DUBLIN, BEECH HILL HOSPITAL, EXISTING UNDERGROUND STORAGE TANK
FACILITY (UST #A-0112793) DES #198401057)

Dear Mr. Beavers:

The New Hampshire Department of Environmental Services ("DES") is hereby notifying you that the above-referenced facility, located at New Harrisville Road, Dublin, NH is not in compliance with New Hampshire Code of Administrative Rules Env-Wm 1401, regulating Underground Storage Facilities. On September 10, 2003 a DES inspector conducted a compliance audit at the facility. A written document, describing the deficiencies was provided to the facility representative. This document required the facility be returned to compliance within 45 days, and DES be notified of the corrective measures taken. Compliance has not been achieved. **Failure to achieve compliance with the following deficiencies within 90 days from the date of this Notice of Non-Compliance and Permit Revocation ("Notice") will result in revocation of your Permit-to-Operate on April 21, 2005. This letter contains important compliance and procedural information. Please read it carefully. Also, note that due to the non-compliance status of your facility a Proposed Administrative Fine will be issued under separate cover.**

1. Env-Wm 1401.07 Permit-to-Operate

Env-Wm 1401.07 requires that the permit-to-operate be permanently affixed on the facility premises and visible to a division inspector. The field inspection revealed that the permit was not posted. The permit-to-operate shall be posted on the facility premises and verification in writing that the permit has been posted shall be provided to DES.

2. Env-Wm 1401.11 Inventory Monitoring

Env-Wm 1401.11 requires inventory monitoring be conducted and inventory records be maintained on motor fuel, hazardous substance and bulk heating oil systems without secondary containment and leak monitoring for both tank and piping. DES has determined that inventory records for the 8,000-gallon #2 fuel oil (Tank 4) and 2,000-gallon #2 fuel oil (Tank 5) were not available during the inspection. Inventory monitoring or tightness test results for Tanks 4 and 5 shall be provided to DES.

3. Env-Wm 1401.21 Tank Standards for New Underground Storage Systems

Env-Wm 1401.21 requires a UST system completed certificate be permanently affixed and visible to the division inspector at the facility premises for all new UST systems. The field inspection

NOTICE OF NON-COMPLIANCE and PERMIT REVOCATION – NCPR # 04-051

January 21, 2005

Page 2 of 4

revealed that a certificate was not posted. A certificate shall be posted at the facility and verification in writing that the certificate has been posted shall be provided to DES.

4. Env-Wm 1401.25 Spill Containment and Overfill Protection

Env-Wm 1401.25 requires all underground storage tanks to be equipped with spill containment and overfill protection devices and maintained in good working order on all UST systems. The field inspection revealed that Tank 4 was not equipped with a spill containment device. A spill containment device must be installed on Tank 4 and verification in writing that the spill containment device has been installed shall be provided to DES. DES could not determine that the overfill protection devices for Tanks 4 and 5 were installed at the required 90% alert and 95% shut off level. Provide documentation that the overfill protection devices for Tanks 4 and 5 are installed at the required 90% alert and 95% shut off level.

5. Env-Wm 1401.31 Operation of Leak Monitoring Equipment

Env-Wm 1401.31 requires leak monitoring equipment and devices to be maintained in good working order at all times to continuously perform their original design function and to be tested annually for proper operation. DES could not determine that the leak monitor for Tanks 4 and 5 were continuously operating. Provide leak monitor replacement or maintenance records or notify DES that the tank systems are temporarily closed. DES has determined that the annual test documentation was not available for the tank and piping leak monitoring equipment and devices. The annual test documentation for the tank and piping leak monitoring equipment and devices for Tanks 4 and 5 shall be provided to DES.

6. Env-Wm 1401.32 Corrosion Protection for Steel Tanks

Env-Wm 1401.32(j) requires that when a cathodic protection system cannot meet the requirements of Env-Wm 1401.32(i), a corrosion expert must repair the cathodic protection system or the underground storage tank system must be permanently closed. DES has determined that the cathodic protection systems for Tanks 4 and 5 failed to meet the requirements of Env-Wm 1401.32(i) and the cathodic protection systems had not been repaired nor were the tank systems permanently closed. Documentation that the cathodic protection systems for Tanks 4 and 5 have been repaired by a corrosion expert or that the tanks have been permanently closed shall be provided to DES.

In addition, Env-Wm 1401.10(a) requires owners of underground storage facilities for oil to maintain financial responsibility for costs associated with cleanup of releases from systems, the implementation of corrective measures, and compensation for third party damages in the amount equal to or greater than \$1,000,000 per occurrence. Env-Wm 1401.10(c) provides that the financial responsibility requirement may be satisfied if the owner is eligible for reimbursement of costs associated with cleanup of releases from the Oil Discharge and Disposal Cleanup Fund ("the Fund"). Eligibility for the Fund is contingent upon achieving and maintaining compliance with statutory (RSA 146-C) and regulatory (Env-Wm 1401) requirement. This facility has not achieved compliance, consequently, the Fund is not available to you as a financial responsibility mechanism.

NOTICE OF NON-COMPLIANCE and PERMIT REVOCATION – NCPR # 04-051

January 21, 2005

Page 3 of 4

In accordance with RSA 146-C:4 and Env-Wm 1401.07(a), no person shall own or operate an underground storage facility without a permit issued by DES. Within 30 days from the date of the permit revocation the facility shall be closed in accordance with Env-Wm 1401.18 for permanent closure.

Based on the compliance deficiencies described above, DES believes this facility poses a potential substantial threat to the surface and groundwater of the state. Therefore, in accordance with RSA 146-C:4 and Env-Wm 1401.09, if compliance as requested above is not achieved within ninety (90) days of the date of this Notice your Permit-to-Operate (UST Permit #0112793) shall be revoked effective **April 21, 2005**. Within thirty (30) days of the date of permit revocation all regulated substances must be removed from the UST systems at this facility. If the facility achieves compliance during the ninety (90) day period, it is necessary that documentation be submitted to DES verifying that compliance has been attained.


You have the right to a hearing to contest these allegations before the proposed license action is taken. The hearing would be a formal adjudicative proceeding pursuant to RSA 541-A:31, at which you and any witnesses you may call would have the opportunity to present testimony and evidence as to why the proposed action should not be taken. All testimony at the hearing would be under oath and would be subject to cross-examination. If you wish to have a hearing, one will be scheduled promptly.

RSA 541-A:31 III(e) provides that you have the right to have an attorney present to represent yourself at your own expense. If the Permit is an occupational license, under RSA 541-A:31, III(f) you have the right to request DES to provide a certified shorthand court reporter at your own expense. **Such request must be submitted in writing at least 10 days prior to the proceeding.**

You may waive your right to a hearing. If you waive the hearing, DES is prepared to proceed with the actions as stated above. You should notify DES of your decision by filling out and returning the enclosed form.

If there are any questions concerning the above, I may be contacted at the Waste Management Division at (603) 271-1165.

Sincerely,


Lynn A. Woodard, P.E.
Supervisor
Oil Compliance and Initial Response Section

CERTIFIED MAIL # 7000 0600 0023 9934 3815

cc: Michael P. Nolin, Commissioner
Gretchen R. Hamel, DES Legal Unit ✓
Fred McGarry, P.E., Chief Engineer, WMD
George Lombardo, P.E., WMD
Tom Beaulieu, WMD
Mark Antonia, WMD
Health Officer, Town of Dublin

NOTICE OF NON-COMPLIANCE and PERMIT REVOCATION – NCPR # 04-051

January 21, 2005

Page 4 of 4

*** RETURN THIS PAGE ONLY ***

APPEARANCE

____ I desire a hearing in accordance with Env-Wm 1401 regarding the Permit.

Name: _____ Title: _____
(Please type or print legibly) (Please type or print legibly)

____ Date: _____

Signature _____

WAIVER OF HEARING

____ I certify that I understand my right to a hearing regarding the revocation of the Permit and that I hereby waive those rights.

Name: _____ Title: _____
(Please type or print legibly) (Please type or print legibly)

____ Date: _____

Signature _____

Please return to:

Department of Environmental Services Legal Unit
Attn: Michael Sclafani, Legal Assistant
PO Box 95
Concord, NH 03302-0095